

REMARKS

In the Office Action, the Examiner made final the restriction requirement previously issued in this application. The Examiner rejected claims 33 and 37-41 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner rejected claims 38-41 as being dependent upon a rejected claim base. Finally, the Examiner rejected claims 29-41 under 35 U.S.C. § 103 as being unpatentable over Jones et al.

In response to the § 112 rejections, Applicants have amended claim 33 as suggested by the Examiner. This amendment adds no new matter and is supported by the specification as filed. Moreover, Applicants have amended claim 37 to delete the objected to language.

With regard to the prior art rejections, Applicants respectfully traverse the Examiner's rejections. The cited prior art does not anticipate nor suggest the subject matter of the pending claims. The claims recite an exchanger where rated capacity can be established by selection of the dimensions of only two parts, the fiber bundle and outer casing (of which the angle flange is a part). This feature of the invention greatly reduces the number of parts necessary to be inventoried to manufacture several different exchanger capacities, thus reducing the costs of the exchanger. Moreover, as the preferred embodiment of the claimed invention is an oxygenator for use in open heart surgery and related procedures, the reduction in inventory costs and reduction in

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the cost of the exchanger may result in reduced health care cost.

Nothing in the Jones reference discloses or suggests an exchanger design with the advantage of allowing the exchanger capacity to be varied altering only the dimensions of two parts. In fact, the Jones design, with the heat exchanger surrounding the outer casing of the fiber bundle would require the variation of many parts of the exchanger to alter the exchanger capacity due to the physical and mechanical interrelationship of these various parts. See, e.g., Jones, Fig. 5. Accordingly, the subject matter of the pending claims are not obvious in view of the Jones reference and thus the rejections should be withdrawn. In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 06-0916. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an

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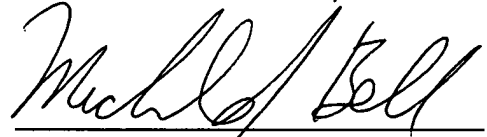
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extension is requested and the fee should also be charged to
our Deposit Account.

Respectfully submitted,

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Dated: December 31, 1996

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